

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 27, 2005. Upon entry of the amendments in this response, claims 1 – 38 remain pending. In particular, Applicant amends claims 1, 8, 15, 20, 27, and 34. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Examiner Interview

Applicant first wishes to express his sincere appreciation for the time that Examiner Chau spent with Applicants' Attorney Anthony Bonner during a telephone discussion on September 8, 2005 regarding the outstanding Office Action. During that conversation, Examiner Chau indicated that there are patentable differences between the subject matter disclosed in the present application and the cited art. Further, Examiner Chau indicated that amending the claims to more clearly indicate that the variable/setting is "purely indicative of an intrinsic characteristic of a main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input" would be potentially beneficial. Examiner Chau also indicated that it would be beneficial to amend the claims to more clearly indicate that "the main speaker is distinct from the subwoofer." Finally, while Examiner Chau indicated that the above listed amendments distinguished the claimed subject matter over the cited art, a further review of the case and an additional search might be necessary. Thus, the Examiner could not agree (at the time of the interview) to allow the claims based on the foregoing amendments, without taking the time to further consider the matter.

II. Piecemeal Examination Practice

The MPEP (see e.g. MPEP 707.07(g)) clearly prohibits piecemeal examination practice. Indeed, the MPEP directs Examiners to conduct a thorough searching and examination of an application (in the first review), searching both the claims and subject that may reasonably be expected to be claimed, based on the specification. Applicant has no reason to believe that anything less was performed in the present situation, and is confident that the Examiner's further consideration of these amendments will not lead to the discovery of any art that is not already of record.

III. Rejections Under 35 U.S.C. §102

A proper rejection of a claim under 35 U.S.C. §102 requires that a single cited art reference disclose each element of the claim. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983).

A. Claim 1 is Patentable Over *Ballard*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,617,480 to Ballard et al. ("*Ballard*"). Applicant respectfully traverses this rejection on the grounds that *Ballard* does not disclose, teach, or suggest all of the claimed elements. Claim 1, as amended recites:

A system for adjusting the frequency response of subwoofer systems, wherein the subwoofer systems include a main speaker and a subwoofer, wherein the subwoofer is distinct from the main speaker, the system comprising:

a user interface configured to receive at least one user-adjustable variable, the user-adjustable variable being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic*

characteristic is independent of output of the main speaker that may be obtained with any particular input; and

a compensation circuit configured to produce a desired subwoofer signal from an input signal in response to the user-adjustable variable.

Applicants respectfully submit that *Ballard* does not disclose, teach, or suggest a “system for adjusting the frequency response of subwoofer systems... comprising: a user interface configured to receive at least one user-adjustable variable, the user-adjustable variable being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input...*” as recited in claim 1, as amended. More specifically, *Ballard* discloses “[a] series of second icons in the form of scroll tabs 74, 76 and 78 above the status icons will then display diagrammatic and numeric characters of the current *filter parameter values* for the selected channel. These parameters are center frequency F, Q, and G” (col. 6, line 13). Additionally, other portions of *Ballard* reveal that *Ballard* appears to disclose adjusting “filter parameters,” which Applicant submits is vastly different than the “user-adjustable variable being purely indicative of an *intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*” recited in claim 1, as amended. For at least this reason, Applicant respectfully submits that claim 1, as amended is allowable over *Ballard*.

B. Claim 8 is Patentable Over *Ballard*

The Office Action indicates that claim 8 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,617,480 to Ballard et al. (“*Ballard*”).

Applicant respectfully traverses this rejection on the grounds that *Ballard* does not disclose, teach, or suggest all of the claimed elements. Claim 8, as amended recites:

A method for adjusting the frequency response of subwoofer systems, wherein the subwoofer systems include a main speaker and a subwoofer, wherein the subwoofer is distinct from the main speaker, the method comprising the steps of:

receiving at least a user-adjustable setting, the user-adjustable setting being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*; and
producing a desired subwoofer signal in response to receiving the user-adjustable setting.

Applicants respectfully submit that *Ballard* does not disclose, teach, or suggest a “method for adjusting the frequency response of subwoofer systems... comprising the steps of: receiving at least a user-adjustable setting, the user-adjustable setting being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input...*” as recited in claim 8, as amended. More specifically, *Ballard* discloses “[a] series of second icons in the form of scroll tabs 74, 76 and 78 above the status icons will then display diagrammatic and numeric characters of the current *filter parameter values* for the selected channel. These parameters are center frequency F, Q, and G” (col. 6, line 13). Additionally, other portions of *Ballard* reveal that *Ballard* appears to disclose adjusting “filter parameters,” which Applicant submits is vastly different than the “user-adjustable setting being purely indicative of an *intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*” recited in claim 8, as amended. For at least this reason, Applicant respectfully submits that claim 8, as amended is allowable over *Ballard*.

C. **Claim 15 is Patentable Over *Ballard***

The Office Action indicates that claim 15 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,617,480 to Ballard et al. ("*Ballard*").

Applicant respectfully traverses this rejection on the grounds that *Ballard* does not disclose, teach, or suggest all of the claimed elements. Claim 15, as amended recites:

A system for adjusting the frequency response of subwoofer systems, wherein the subwoofer systems include a main speaker and a subwoofer, wherein the subwoofer is distinct from the main speaker, the system comprising:

means for receiving at least one user-adjustable setting, the user-adjustable setting being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*;

means for receiving an input signal; and

means for producing a desired subwoofer signal from the input signal in response to the user adjustable setting.

Applicants respectfully submit that *Ballard* does not disclose, teach, or suggest a "system for adjusting the frequency response of subwoofer systems... comprising: means for receiving at least one user-adjustable setting, the user-adjustable setting being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input ...*" as recited in claim 15, as amended. More specifically, *Ballard* discloses "[a] series of second icons in the form of scroll tabs 74, 76 and 78 above the status icons will then display diagrammic and numeric characters of the current *filter parameter values* for the selected channel. These parameters are center frequency F, Q, and G" (col. 6, line 13). Additionally, other portions of *Ballard* reveal that *Ballard* appears to disclose adjusting "filter parameters," which Applicant

submits is vastly different than the “user-adjustable setting being purely indicative of an *intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*” recited in claim 15, as amended. For at least this reason, Applicant respectfully submits that claim 15, as amended is allowable over *Ballard*.

D. Claim 20 is Patentable Over *Ballard*

The Office Action indicates that claim 20 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,617,480 to Ballard et al. (“*Ballard*”). Applicant respectfully traverses this rejection on the grounds that *Ballard* does not disclose, teach, or suggest all of the claimed elements. Claim 20, as amended recites:

A system for adjusting the frequency response of subwoofer systems, wherein the subwoofer systems include a main speaker and a subwoofer, wherein the subwoofer is distinct from the main speaker, the system comprising:

a user interface configured to receive user-adjustable variables, the user-adjustable variables comprising:

a first variable that is purely indicative of an *intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*; and

a second variable that is not purely indicative of a main speaker characteristic; and

a compensation circuit configured to produce a desired subwoofer signal from an input signal in response to the user-adjustable variables.

Applicants respectfully submit that *Ballard* does not disclose, teach, or suggest a “system for adjusting the frequency response of subwoofer systems... comprising: a first variable that is purely indicative of an *intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any*

particular input...” as recited in claim 20, as amended. More specifically, *Ballard* discloses “[a] series of second icons in the form of scroll tabs 74, 76 and 78 above the status icons will then display diagrammatic and numeric characters of the current *filter parameter values* for the selected channel. These parameters are center frequency F, Q, and G” (col. 6, line 13). Additionally, other portions of *Ballard* reveal that *Ballard* appears to disclose adjusting “filter parameters,” which Applicant submits is vastly different than the “first variable being purely indicative of an *intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*” recited in claim 20, as amended. For at least this reason, Applicant respectfully submits that claim 20, as amended is allowable over *Ballard*.

E. Claim 27 is Patentable Over Ballard

The Office Action indicates that claim 27 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,617,480 to Ballard et al. (“*Ballard*”). Applicant respectfully traverses this rejection on the grounds that *Ballard* does not disclose, teach, or suggest all of the claimed elements. Claim 27, as amended recites:

A method for adjusting the frequency response of subwoofer systems, wherein the subwoofer systems include a main speaker and a subwoofer, wherein the subwoofer is distinct from the main speaker, the method comprising the steps of:

receiving user adjustable settings, the user adjustable settings comprising:

a setting that is purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*; and

a setting that is not purely indicative of a main speaker characteristic; and

producing a desired subwoofer signal in response to receiving the

user adjustable settings.

Applicants respectfully submit that *Ballard* does not disclose, teach, or suggest a “method for adjusting the frequency response of subwoofer systems... comprising: the steps of a setting that is purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input...*” as recited in claim 27, as amended. More specifically, *Ballard* discloses “[a] series of second icons in the form of scroll tabs 74, 76 and 78 above the status icons will then display diagrammatic and numeric characters of the current *filter parameter values* for the selected channel. These parameters are center frequency F, Q, and G” (col. 6, line 13). Additionally, other portions of *Ballard* reveal that *Ballard* appears to disclose adjusting “filter parameters,” which Applicant submits is vastly different than the “setting being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*” recited in claim 27, as amended. For at least this reason, Applicant respectfully submits that claim 27, as amended is allowable over *Ballard*.

F. Claim 34 is Patentable Over *Ballard*

The Office Action indicates that claim 34 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,617,480 to Ballard et al. (“*Ballard*”). Applicant respectfully traverses this rejection on the grounds that *Ballard* does not disclose, teach, or suggest all of the claimed elements. Claim 34, as amended recites:

A system for adjusting the frequency response of subwoofer systems, wherein the subwoofer systems include a main speaker and a

subwoofer, wherein the subwoofer is distinct from the main speaker, the system comprising:

means for receiving user adjustable settings, the user-adjustable settings comprising:

a setting that is purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*; and

a setting that is not purely indicative of a main-speaker characteristic;

means for receiving an input signal; and

means for producing a desired subwoofer signal from the input signal in response to the plurality of user adjustable setting.

Applicants respectfully submit that *Ballard* does not disclose, teach, or suggest a “system for adjusting the frequency response of subwoofer systems... comprising: a setting that is purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input...*” as recited in claim 34, as amended. More specifically, *Ballard* discloses “[a] series of second icons in the form of scroll tabs 74, 76 and 78 above the status icons will then display diagrammatic and numeric characters of the current *filter parameter values* for the selected channel. These parameters are center frequency F, Q, and G” (col. 6, line 13). Additionally, other portions of *Ballard* reveal that *Ballard* appears to disclose adjusting “filter parameters,” which Applicant submits is vastly different than the “setting being purely indicative of *an intrinsic characteristic of the main speaker, wherein the intrinsic characteristic is independent of output of the main speaker that may be obtained with any particular input*” recited in claim 34, as amended. For at least this reason, Applicant respectfully submits that claim 34, as amended is allowable over *Ballard*.

G. Claims 2 – 7, 9- 14, 16 – 19, 21 – 26, 28 – 33, and 35 – 38 are Patentable Over Ballard

In addition, dependent claims 2 – 7 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Dependent claims 9 – 14 are believed to be allowable for at least the reason that they depend from allowable independent claim 8. Dependent claims 16 – 19 are believed to be allowable for at least the reason that they depend from allowable independent claim 15. Dependent claims 21 – 26 are believed to be allowable for at least the reason that they depend from allowable independent claim 20. Dependent claims 28 – 33 are believed to be allowable for at least the reason that they depend from allowable independent claim 27. Dependent claims 35 – 38 are believed to be allowable for at least the reason that they depend from allowable independent claim 34. *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

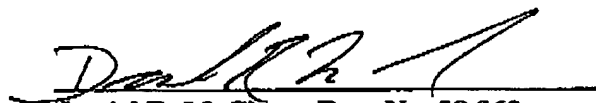
CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Further, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,


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